

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

TANYA GILBERT,

Plaintiff,

vs.

Case No. _____

NATIONWIDE MUTUAL INSURANCE
COMPANY,

Defendant.

NOTICE OF REMOVAL

Defendant Nationwide Mutual Insurance Company ("hereinafter referred to as "Nationwide" or "Defendant") by and through its undersigned counsel, and pursuant to 28 U.S.C. §§ 1441 and 1446 hereby removes this action known as *Tanya Gilbert v. Nationwide Mutual Insurance Company*, Case No. CH-12-1335-1, from the Chancery Court of Tennessee for the Thirtieth Judicial District at Memphis to the United States District Court for the Western District of Tennessee, Western Division. As grounds for removal, the Defendant states as follows:

1. Plaintiff Tanya Gilbert (hereinafter "Gilbert" or "Plaintiff") filed her suit on or about August 23, 2012, in the Chancery Court of Tennessee for the Thirtieth Judicial District at Memphis. This action styled *Tanya Gilbert v. Nationwide Mutual Insurance Company*, Case No. CH-12-1335-1 (the "Chancery Court Action"). Service was perfected on the Tennessee Commissioner of Insurance on August 29, 2012. *See Exhibit A.*
2. As more fully set out below, this case is properly removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

3. The Plaintiff is a citizen and resident of the State of Tennessee. Defendant is an Ohio Corporation with its principal place of business in Columbus, Ohio. Therefore, complete diversity of citizenship exists between Plaintiff and Defendant.

4. The Plaintiff's Complaint seeks actual and punitive damages for alleged bad faith in handling an insurance claim in an amount not to exceed \$1 million. Consequently, the amount prayed for the in the Plaintiffs' Complaint exceeds \$75,000 as required by 28 U.S.C. § 1332.

5. This Court would have original subject matter jurisdiction over this action under the provisions of 28 U.S.C. § 1332 if the action had originally been brought in Federal Court. Removal is, therefore, proper under 28 U.S.C. § 1441(a).

6. Removal of this case on the basis of diversity of citizenship is not precluded by any of the provisions of 28 U.S.C. § 1441(b).

7. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) in that this matter was filed on August 23, 2012, and service was perfected on the Commissioner of Insurance on August 29, 2012. This Notice of Removal is filed within 30 days of service and is thus timely filed under 28 U.S.C. §1446(b). By filing this removal, Defendant does not waive deficiencies in service of process, if any.

8. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings and other papers or exhibits publicly on file in the Chancery Court of Tennessee for the Thirtieth Judicial District at Memphis in this matter are attached hereto as **Collective Exhibit B**. No other process, pleadings or orders have been served upon the Defendant in the Chancery Court Action.

9. In compliance with 28 U.S.C. § 1446(c), a copy of the Notice of Filing Notice of Removal of Action to the United States District Court for the Western District of Tennessee,

Western Division, that will be filed with the Chancery Court of Tennessee for the Thirtieth Judicial District at Memphis, is attached hereto as **Exhibit C**.

10. Defendant has given written notice of the filing of this Notice of Removal to Plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant hereby removes this case to the Western Division of the United States District Court for the Western District of Tennessee, and having met all procedural requirements for removal and having paid the appropriate filing fee, respectfully requests that the Court take jurisdiction over the action and conduct all further proceedings.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, PC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 24th day of September, 2012, a copy of the foregoing was electronically filed and served on the parties listed below via first class mail, postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice, and the Notice of Electronic Filing indicates that Notice was electronically mailed to said party:

R. Sadler Bailey
John Zuck
Nicole Gibson Davison
6256 Poplar Avenue
Memphis, TN 38119

/s/ Bruce A. McMullen
Bruce A. McMullen